HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.16001 of 2006

Between

M/s Sri Mahalaxmi Industries ..Petitioner

AND

L.B.Nagar Municipality and another ..Respondents

:: JUDGMENT ::

Counsel for the petitioner	Sri P.Venugopal with Sri K.R.Sasidharan Nair
Counsel for respondent No.1	Sri P.Radhakrishna, Standing Counsel for L.B.Nagar Municipality
Counsel for respondent No.2	Sri S.V.Bhatt

4.1.2007

Per G.S.Singhvi, CJ

This is a petition for quashing proceedings No.F1/4488/2006 dated 15.7.2006 issued by Commissioner, L.B.Nagar Municipality (for short, 'the Commissioner'), whereby he cancelled the trade licence of the petitioner.

The petitioner is running a rice mill in Karmanghat area of L.B. Nagar Municipality since 1982-83. It has obtained various licences including the trade licence issued by the competent authority of L.B.Nagar Municipality. By the impugned proceedings, the Commissioner cancelled the trade licence of the petitioner by invoking Section 344 (5) of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the 1965 Act').

The petitioner has challenged the cancellation of trade licence mainly on the ground of violation of the rules of natural justice and arbitrary exercise of power. In the affidavit filed by Sri Shetty Yellaiah, Managing Partner of the firm, it has been averred that no show cause notice, much less show cause notice dated 28.6.2006 was served on the firm and that order dated 29.9.1997 passed by this Court in Writ Petition No.16252 of 1996 filed by A.Ailaiah Yadav cannot be made basis for cancellation of trade licence without complying with the rule of hearing.

In the counter affidavit of Sri N.Satyanarayana, Commissioner, L.B.Nagar Municipality, it has been averred that the decision to cancel the trade licence of the petitioner was taken after issuing show cause notice dated 28.6.2006, which was sent through Sri Mohd. Chand, Sanitary Jawan of the Municipality. According to Sri N.Satyanarayana, as per the report of Sanitary Jawan, the workers of the petitioner rice

mill refused to take the notice and, therefore, the said notice was affixed on the wall of the rice mill on the same day i.e. 28.6.2006 itself. The deponent has defended the cancellation of trade licence by asserting that the petitioner's mill is located in the area earmarked as residential zone in the Zonal Development Plan. In paragraphs 5 and 6 of his affidavit, Sri N. Satyanarayana has averred as under:

> "5. It is respectfully submitted that as per the Draft Proposal of the Zonal Development Plan of Hayathnagar which was approved by the HUDA vide Resolution No.4 in the meeting held on 28.11.1988, the site in which the petitioner's Mill was located was earmarked for residential zone. The copy of the said Zonal Development Plan, Hayathnagar, was filed as Annexure R1 along with this counter affidavit and I pray that this Hon'ble Court may be pleased to take the said plan on record.
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> 6. It is respectfully submitted that Sri Srinivasa Nagar Colony, Hayathnagar, R.R. District, the layout was approved by the then Gram Panchayat i.e., Sarpanch of the Gram Panchayat. According to the said layout, the petitioner's Rice Mill is located in residential plots i.e., Plot Nos.266 to 273 in Sy.Nos.305 to 310 of Karmanghat Village and Sy.Nos.25 to 28, 71, 74 to 78, 80 and 81 of Lingojiguda Village. The copy of the said layout is herewith filed as Annexure R2 along with this counter affidavit and I pray that this Hon'ble Court may be pleased to take the said plan on record."

We have heard Sri P.Venugopal and Sri P.Radha Krishna, learned counsel for the parties and perused the record. In the context of the averments contained in the affidavit of Sri N. Satyanarayana that the notice was sent to the petitioner through Sri Mohd.Chand, Sanitary Jawan and the workers of the mill refused to accept the same necessitating its affixation on the wall of the rice mill, we asked Sri P.Radha Krishna to produce before the Court copy of notice dated

28.6.2006, which is said to have been served on the petitioner and the report of Sri Mohd. Chand, Sanitary Jawan, who is said to have affixed the notice on the property of rice mill belonging to the petitioner, but he expressed his inability to produce either of the documents. It is, thus, evident that respondent No.1 has failed to substantiate the assertion contained in the affidavit of Sri N.Satyanarayana that the petitioner's trade licence was cancelled after complying with the rules of natural justice. Consequently, the decision to cancel the licence is liable to be nullified on the ground of violation of Section 344(6) of the 1965 Act.

We are further of the view that the cancellation of trade licence of the petitioner is liable to be nullified because the impugned communication is totally devoid of reasons. It merely makes a reference to the proceedings of WPMP.No.13882 of 2006, dated 13.6.2006 in Writ Petition No.16252 of 1996, public representation and show cause notice dated 28-8-2006. However, no reason has been assigned for cancellation of the trade licence. It is therefore, reasonable to take the view that the impugned decision is vitiated due to violation of one of the facets of the rules of natural justice that an order affecting civil rights of a person must contain reasons.

In the result, the writ petition is allowed and proceedings dated 15.7.2006 issued by respondent No.1 cancelling the trade licence of the petitioner are declared illegal and quashed. However, keeping in view order dated 29.9.1997 passed by this Court in Writ Petition No.16252 of 1996 and proceedings dated 13.6.2006 of WPMP.No.13882 of 2006, we deem it proper to make it clear that the concerned authority shall be free to pass fresh order after issuing show cause notice to the petitioner giving particulars of violation of the provisions of the 1965 Act or any other law including anti-pollution

enactments and giving reasonable opportunity of hearing to the petitioner.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY,J

4.1.2007.

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